

UNITED STATES BANKRUPTCY COURT

FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

In the Matter of:

ADELE MOORMAN POLK

Debtor

Chapter 13

Case No. 19-12514-KHK

TRUSTEE’S RESPONSE TO MOTION
REQUESTING STAY PENDING APPEAL

Trustee responds to Debtor’s Motion for Stay Pending Appeal as follows:

1. Debtor does not have “clean hands” with which to ask the Court for equitable relief since she already obtained a *de facto* stay pending appeal when she filed a subsequent Chapter 13 Petition (Case #21-10868-BFK) to thwart creditor activity. That case was dismissed since it was a bad-faith attempt (albeit a successful one) to obtain a stay pending appeal without following the requirements of Bankruptcy Rule 8006.
2. Trustee disputes Debtor’s assertion that she is likely to prevail on appeal, if for no other reason than the fact that she has never disputed the fundamental fact that she failed to comply with this Court’s Order of September 3, 2020 requiring her to file a new Plan by September 17, 2020, which in and of itself was adequate grounds to dismiss the case.
3. Debtor acknowledged in her 341 meeting testimony in Case #21-10868-BFK that she had not made all required mortgage payments that had come due since the dismissal of this case, meaning the creditor(s) are prejudiced by the passage of time. Debtor has not proposed a supersedeas bond or any other mechanism to protect the creditor(s) while she prosecutes her appeal.
4. To the extent the Court grants Debtor’s Motion Trustee suggests that any “stay” should be limited in scope and should afford the impacted creditors the opportunity to seek relief from same if Debtor continues to default or if other circumstances exist or arise to warrant the lifting of the stay.

Trustee's Response to Motion Requesting Stay Pending Appeal

Adele Moorman Polk, Case # 19-12514-KHK

Date: _July 15, 2021_____

_____/s/ Thomas P. Gorman_____

Thomas P. Gorman
Chapter 13 Trustee
300 N. Washington Street, #400
Alexandria, VA 22314
(703) 836-2226
VSB 26421

CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of July, 2021, served via ECF to authorized users or mailed a true copy of the foregoing Response to Motion Requesting Stay Pending Appeal to the following parties.

Robert Sergio Brandt
Attorney for Debtor
The Law Office of Robert S. Brandt
600 Cameron Street
Alexandria, VA 22314

_____/s/ Thomas P. Gorman_____

Thomas P. Gorman